

3. REVIEW OF FIREARMS TRAFFICKING INVESTIGATIONS

July 1996 - December 1998

The case review presented in this report originated in a Congressional request for information about ATF's enforcement activities. Specifically, the House and Senate Committees on Appropriations requested ATF to report on trafficking investigations by February 1999 in connection with funding for ATF's Youth Crime Gun Interdiction Initiative (YCGII), the component of ATF's firearms enforcement programs focused on illegal acquisition, possession, and use of guns by youth and juveniles.¹⁰

In response, ATF Headquarters requested all ATF Special Agents in Charge to provide information on all firearms trafficking investigations in their respective areas between July 1996 (the commencement date of YCGII) and December 1998 (the end of the last calendar year before February 1999). A survey was sent to each Field Division requesting information for each investigation (see Appendix B).

The 23 ATF Field Divisions submitted a total of 1,530 reports on investigations, including ongoing investigations and perfected cases referred for prosecution. Information on 648 investigations involving youth and juveniles were reviewed and provided the basis for a report to Congress on the performance of YCGII in February 1999.¹¹ In this report, ATF and an outside researcher review all 1,530 investigations, using the survey forms submitted.¹²

This report also reviews the disposition of cases referred by ATF for prosecution. To develop disposition information, ATF in December 1999 sent supplementary surveys for the 1,530 submitted investigations to the 23 ATF Field Divisions (see Appendix B). All surveys were returned to ATF Headquarters by March 15, 2000 for analysis by ATF personnel and outside researchers. Case disposition information was reviewed by outside researchers working with the Bureau of Justice Statistics, which has statutory authority for collecting and maintaining Federal case disposition information.¹³

The case review is presented in five sections: initiation of firearms trafficking investigations; traffickers and trafficking channels; firearms misuse, felons, and trafficking investigations; characteristics of the investigations; and characteristics of case dispositions.

¹⁰ The Statement of Managers accompanying the 1998 Conference Report stated that: "the conferees believe that the proposed increase in funding must be supported by evidence of a significant reduction in youth crime, gun trafficking, and gun availability. The conferees would like to see additional evidence linking the Youth Crime Gun Interdiction Initiative (YCGII) to a corresponding decrease in gun trafficking among youths and minors. Therefore, the conferees direct ATF to report no later than February 1, 1999 on the performance of YCGII." Conference Report to Accompany H.R. 4328, October 19, 1998.

¹¹ See *Youth Crime Gun Interdiction Initiative: Performance Report*. Report to the Senate and House Committees on Appropriations Pursuant to Conference Report 105-825, October 1998. Department of the Treasury, Bureau of Alcohol, Tobacco, and Firearms, 1999.

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3-1. Initiation of Firearms Trafficking Investigations

Traditional methods. ATF firearms trafficking investigations were most frequently initiated after a referral from other law enforcement agencies or through information provided by confidential informants.

FFL cooperation. In about nine percent of the investigations, Federal firearms licensees (FFLs) reported suspicious activity to ATF, such as suspected straw purchasing or the use of false identification to obtain firearms. Almost eight percent of the investigations were initiated by FFLs reporting burglaries, thefts, and robberies to ATF. ATF maintains a database on firearms that FFLs report as stolen or missing; this information is used to initiate investigations and in connection with regulatory compliance inspections.

Innovative use of information resources: tracing and multiple sales forms. Although many investigations were initiated via traditional law enforcement leads, many others were initiated through the use of crime gun trace information and multiple sales information.¹⁴ Nearly 20 percent of the investigations were initiated through trace analysis after the recovery of crime guns, and slightly more than 13 percent of the investigations were initiated after review-

ing multiple firearms sales records. Almost 30 percent of all ATF firearms trafficking investigations between July 1996 and December 1998 were initiated either through the analysis of trace data, multiple firearms sales records, or both (448 of 1,530). Beyond the initiation of investigations, tracing was used as an investigative tool to gain information on recovered crime guns in 60 percent of the investigations.¹⁵

These findings show that crime gun trace analysis and Project LEAD, the National Tracing Center's firearms trafficking information system, are being widely used to increase ATF's productivity in the development of firearms trafficking investigations. With Project LEAD available on-line to ATF field offices and State and local task forces working with ATF field offices since November 1999, and assuming continuing increased participation in tracing by State and local law enforcement agencies, trace and multiple sales information can be expected to grow in importance as a source of leads to traffickers. In addition, as law enforcement officials develop the ability to connect spent cartridges and bullets to firearms through the National Integrated Ballistics Information Network (NIBIN), the ability to identify illegal sources of firearms will continue to grow.

¹⁴ 18 U.S.C. § 923 (g) (3) (B). In November 1998, the National Tracing Center began entering multiple sales information into Project LEAD, ATF's firearms trafficking information system, making it available for trafficking investigations.

¹⁵ Information obtained from the Supplemental Survey.

Table 1. Initiation of ATF Firearms Trafficking Investigations

| Reason | Number of investigations | Percent |
|---|--------------------------|---------|
| Referral from another State, local, or Federal agency | 409 | 26.7 |
| Confidential informant | 352 | 23.0 |
| Trace analysis after firearms recovery | 296 | 19.4 |
| Review of multiple sales forms | 205 | 13.4 |
| FFL reported suspicious activity | 139 | 9.1 |
| Developed from another ATF investigation | 127 | 8.3 |
| FFL reports burglary/ theft / robbery to ATF | 115 | 7.5 |
| ATF initiated investigation of suspicious activity (e.g. gun show task force, interstate theft task force, etc.) | 81 | 5.3 |
| ATF Regulatory inspection of FFL records | 43 | 2.8 |
| Tip by concerned citizen or anonymous source | 37 | 2.4 |
| Other | 9 | 0.6 |
| Number of investigations included = 1,530 | | |
| Note: Sum may exceed 100 percent since investigations may be included in more than one category. | | |

3-2. Traffickers and Trafficking Channels

For law enforcement agencies in any community, a key challenge is to identify the sources of illegal supply of firearms, the types of traffickers, and the predominant types of trafficking channels. For instance, if criminals in a particular community are obtaining firearms through theft from lawful firearms owners, law enforcement and community public safety strategies must focus on reducing theft.¹⁶ To the extent that the illegal market in firearms is supplied by transactions at FFLs in new and secondhand firearms, whether pawnbrokers, other retail dealers, or residential licensees, an enforcement response to these sources is required.

The records of purchase denials under the Brady Act show that prohibited persons, including some violent felons, do seek to acquire guns from FFLs.¹⁷ This review confirms that retail transactions in new and secondhand firearms with FFLs and unlicensed sellers supply the illegal market, and also that stolen firearms are trafficked by unlicensed dealers.

Firearms Trafficking Channels Identified in ATF Investigations

Retail transactions: straw purchasing, unlicensed sellers, and corrupt FFLs. The most frequent type of trafficking channel identified in ATF investigations is straw purchasing from federally licensed firearms dealers. Nearly 50 percent of the ATF investigations involved firearms being trafficked by straw purchasers either directly or indirectly. The investigations also involve trafficking by unlicensed sellers (more than 20 percent); by federally licensed dealers (just under 9 percent); and diversion from gun shows and flea markets by FFLs or unlicensed sellers (about 14 percent).

Theft as a source of trafficked firearms. Firearms stolen from FFLs, residences, and common carriers were involved in 26 percent of the trafficking investigations. ATF's trafficking investigations show that firearms may be stolen and subsequently trafficked from a variety of sources, including FFL dealers, pawnbrokers, residences, and common carriers. These stolen firearms may be sold subsequently by individuals and groups specializing in firearms trafficking or by those fencing a variety of stolen goods.¹⁸

¹⁶ See e.g. James D. Wright, 1995, "Ten Essential Observations on Guns in America," *Society* March/April: 63 – 68; Philip J. Cook, Stephanie Molliconi, and Thomas B. Cole, 1995, "Regulating Gun Markets," *Journal of Criminal Law and Criminology* 86: 59-92; James D. Wright and Peter H. Rossi, 1994, *Armed and Considered Dangerous: A Survey of Felons and Their Firearms*, Expanded Edition, New York: Aldine De Gruyter; Bureau of Justice Statistics. 1993. "Survey of State Prison Inmates, 1991" Washington, DC: US Department of Justice; Joseph F. Sheley and James D. Wright. 1993. "Gun Acquisition and Possession in Selected Juvenile Samples." *Research in Brief*. Washington, DC: US Department of Justice.

¹⁷ Since the passage of the Brady Act, more than 500,000 prohibited persons have been prevented from buying firearms from FFLs.

¹⁸ Two studies conducted in New York suggested that firearms trafficking was an important source of guns for criminals. A review of a 1973 analysis of stolen firearms by the New York City Police Department showed that, beyond residential burglaries, firearms are stolen from a variety of sources, including burglaries and robberies of manufacturers, licensed dealers, and during shipping, that stolen firearms are sometimes subsequently trafficked by thieves, and that stolen firearms are rapidly recovered in crime after theft. Steven Brill, 1977, *Firearms Abuse: A Research and Policy Report*, Washington, D.C.: Police Foundation. About 40 percent of 22 stolen firearms examined by Brill were recovered in crime within six months after the theft; Brill rightly cautions against over-interpreting these data due to small sample size. A 1992 examination of illegal trafficking of firearms into New York City noted that straw purchasers and corrupt federally licensed dealers illegally divert firearms to criminal consumers. Jeremy Travis and William Smarrito. 1992, "A Modest Proposal to End Gun Running in America," *Fordham Urban Law Journal* 19: 795 – 811.

Regional variations. Regional variations in the trafficking channels in ATF investigations suggest that the illegal market in guns may operate differently in different areas of the country. For instance, straw purchasing was involved in almost two thirds of ATF's trafficking investigations in its Northeast region, but

closer to a quarter of its trafficking investigations in its Southwest and Western regions.¹⁹ However, without additional information, it is not possible to know whether regional differences reflect differences in investigative practice, in the illegal market, or both.

Table 2. Sources of Firearms Trafficking Identified in ATF Investigations

| Source | Number of investigations | Percent |
|---|--------------------------|---------|
| Firearms trafficked by straw purchaser or straw purchasing ring | 709 | 46.3 |
| Trafficking in firearms by unlicensed sellers* | 314 | 20.5 |
| Trafficking in firearms at gun shows and flea markets | 212 | 13.9 |
| Trafficking in firearms stolen from FFL | 209 | 13.7 |
| Trafficking in firearms stolen from residence | 158 | 10.3 |
| Firearms trafficked by licensed dealer, including pawnbroker | 133 | 8.7 |
| Street criminals buying and selling firearms from unknown sources** | 95 | 6.2 |
| Trafficking in firearms stolen from common carrier | 31 | 2.0 |
| Unlicensed manufacture of common firearms or NFA weapons | 16 | 1.0 |
| Other sources (e.g. selling firearms over Internet, illegal pawning) | 18 | 1.1 |
| Number of investigations included = 1,530 | | |
| Note: Sum may exceed 100 percent since investigations may be included in more than one category. | | |
| * As distinct from straw purchasers and other traffickers. | | |
| ** These were investigations in the early stages where trafficking channels were not yet fully clear. | | |

¹⁹ The Northeast region consisted of trafficking investigations submitted by the Boston, New York, Philadelphia, Baltimore, and Washington, D.C. Field Divisions. The Southeast region consisted of trafficking investigations submitted by the Charlotte, Miami, Tampa, Atlanta, Nashville, and New Orleans Field Divisions. The Central region consisted of trafficking investigations submitted by the Chicago, Columbus, Detroit, Kansas City, Louisville, and St. Paul Field Divisions. The Southwest region consisted of trafficking investigations submitted by the Phoenix, Dallas, and Houston Field Divisions. The Western region consisted of trafficking investigations submitted by the Los Angeles, San Francisco, and Seattle Field Divisions.

Volume of Firearms Diverted, By Trafficking Channel

The types of trafficking channels differ in the mean number of guns per investigation and the overall number of guns associated with them.

Trafficking by corrupt FFLs. Licensed dealers, including pawnbrokers, have access to a large volume of firearms, so a corrupt licensed dealer can illegally divert large numbers of firearms. Although FFL traffickers were involved in the smallest proportion of ATF trafficking investigations, under 10 percent, FFL traffickers were associated with by far the highest mean number of illegally diverted firearms per investigation, over 350, and the largest total number of illegally diverted firearms, as compared to the other trafficking channels.

Gun shows. Investigations involving gun shows involved the second highest number of trafficked guns per investigation, over 130, and were associated with over 26,000 illegally diverted firearms.

Straw purchasers and unlicensed sellers. Straw purchasing rings and small scale straw purchasers averaged about half as many illegally diverted firearms per investigation (37) as unlicensed dealers (75), but the two types of trafficking channels were associated with a similar number of trafficked firearms overall, over 20,000.

Stolen firearms. Investigations involving firearms stolen from residences and FFLs were associated with the smallest mean number of guns per investigation. Because of the small number of investigations involving thefts of firearms from common carriers, this trafficking channel yielded the smallest total number of firearms, although it averaged a substantial number of illegally diverted firearms per investigation.²⁰

²⁰ Common carriers are not required to report thefts to ATF, so relatively few such investigations are initiated. However, ATF will soon propose a regulation that would require FFLs to report firearms lost in shipment.

Table 3. Volume of Firearms Diverted, By Trafficking Channel

| Source | Number of investigations | Number of firearms | Average number of firearms per invest.* | Number of firearms in more than half the investigations** |
|--|-----------------------------|-----------------------|---|---|
| Firearms trafficked by straw purchaser or straw purchasing ring | 695 | 25,741 | 37.0 | 14 |
| Trafficking in firearms by unlicensed sellers*** | 301 | 22,508 | 74.8 | 10 |
| Trafficking in firearms at gun shows and flea markets | 198 | 25,862 | 130.6 | 40 |
| Trafficking in firearms stolen from FFLs | 209 | 6,084 | 29.1 | 18 |
| Trafficking in firearms stolen from residence | 154 | 3,306 | 21.5 | 7 |
| Firearms trafficked by licensed dealer, including pawnbroker | 114 | 40,365 | 354.1 | 42 |
| Trafficking in firearms stolen from common carrier | 31 | 2,062 | 66.5 | 16 |
| Number of investigations included = 1,470 | | | | |
| Number of firearms included = 84,128 | | | | |
| Note: Sum may exceed 100 percent since investigations may be included in more than one category. Excludes 60 investigations with an unknown number of trafficked firearms. | | | | |
| * Averages were calculated using the mean. | | | | |
| ** This measure used the median. | | | | |
| *** As distinct from straw purchasers and other traffickers. | | | | |

Federally Licensed Dealers Conspiring With Other Traffickers

In most firearms trafficking investigations, ATF agents uncovered only one pathway through which guns were diverted or trafficked (80.8 percent, 1,237 of 1,530). Firearms trafficking

investigations involving FFLs often involve a mixture of channels, including gun shows (31 percent), straw purchasers (28 percent), and unlicensed sellers (12 percent).

Table 4. Other Trafficking Channels Involved in FFL Trafficking Investigations

| Trafficking channels | Number | Percent |
|--|--------|---------|
| Number of investigations involving FFLs | 133 | 100.0 |
| FFL trafficking alone | 48 | 36.1 |
| Multiple channels | 85 | 63.0 |
| Multiple channels (may be more than one) | | |
| Trafficking in firearms at gun shows and flea markets | 41 | 30.8 |
| Firearms trafficked by straw purchaser or straw purchasing ring | 37 | 27.8 |
| Trafficking in firearms by unlicensed sellers* | 16 | 12.0 |
| Trafficking in firearms stolen from residence | 6 | 4.5 |
| Trafficking in firearms stolen from FFLs | 3 | 2.3 |
| Note: Sum may exceed 100 percent since investigations may be included in more than one category. | | |
| * As distinct from straw purchasers and other traffickers. | | |

Federally Licensed Dealers' Impact on the Volume of Illegal Supply

Licensed firearms dealers' access to large volumes of firearms can influence the number of firearms illegally diverted in investigations involving gun shows, straw purchasers, and unlicensed sellers. An unlicensed dealer conspiring with a corrupt FFL, for example, may be able to divert larger numbers of firearms to prohibited persons than an unlicensed

seller acting alone. When corrupt FFLs act in conjunction with other types of traffickers, the average number of guns diverted per investigation increases dramatically when compared to investigations of gun shows, straw purchasers, and unlicensed sellers that do not involve conspiracy with a corrupt FFL.

Table 5. The Influence of FFL Traffickers on the Number of Firearms Trafficked by Straw Purchasers, Unlicensed Sellers, and at Gun Shows

| Source | No FFL involvement | | FFL involvement | |
|---|--------------------------|---|--------------------------|---|
| | Number of investigations | Average number of firearms per investigation* | Number of investigations | Average number of firearms per investigation* |
| Firearms trafficked by straw purchaser or straw purchasing ring | 659 | 32.8 | 36 | 114.8 |
| Trafficking in firearms by unlicensed sellers** | 285 | 46.6 | 16 | 576.6 |
| Trafficking in firearms at gun shows and flea markets | 161 | 87.9 | 37 | 316.5 |
| Firearms trafficked by licensed dealer, including pawnbroker; no other trafficking channels | — | — | 48 | 562.6 |
| Number of investigations included = 1,470. | | | | |
| Note: Sum may exceed 100 percent since investigations may be included in more than one category. Excludes 60 cases with an unknown number of trafficked firearms. | | | | |
| * Averages were calculated using the mean. | | | | |
| ** As distinct from straw purchasers and other traffickers. | | | | |

The Business Premises of Licensed Dealers in Trafficking Investigations

Enforcement information provides some insight into the relative roles of various elements of the licensed dealer population. A 1998 random sample of FFLs identified 69 percent of licensees as retail gun dealers and 10 percent as pawnbrokers. The remaining 21 percent were collectors of curios and relics, manufacturers of firearms and ammunition, and importers. Of the retail dealers and pawnbrokers, 44 percent operated from commercial premises (a quarter of these were gun shops or sporting goods and hardware outlets, while the rest were businesses not normally associated with a gun business, such as funeral homes and auto parts stores), and 56 percent from residential premises, down from 74 percent in 1992.²¹

A 20 percent sample (26 of 133) of FFL trafficking investigations under review here were

randomly selected to examine the type of business premises maintained by the FFLs under investigation.

Slightly more than 38 percent were retail dealers and exactly the same number were pawn shops; 23 percent were “kitchen table” or residential dealers. Half of the licensed dealers who maintained a gun store business premises also sold firearms at gun shows. One third of the residential dealers and 20 percent of pawnbrokers also sold firearms at gun shows.

Because of the relatively small sample of cases examined, this table shows the variety of business premises of licensed dealers engaged in trafficking, but cannot be used as a basis for strong inferences about the relative importance of one type of business premise relative to another in firearms trafficking investigations.

Table 6. Business Premises of a 20 Percent Random Sample of FFLs Involved in Trafficking Investigations

| FFL business premises | Number of investigations | Percent of all investigations | Percent of category selling at gun shows |
|--|--------------------------|-------------------------------|--|
| Total | 26 | 100.0 | 35.0 |
| Gun store business premises | 10 | 38.5 | 50.0 |
| Pawn shop business premises | 10 | 38.5 | 20.0 |
| Residential business premises | 6 | 23.0 | 33.3 |
| Note: Since this is a 20 percent sample, it may not be representative of all FFLs. | | | |

²¹ *Commerce in Firearms in the United States*, February 2000, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms.

Gun Shows and the Diversion of Firearms

Gun shows are a special case of the retail sale of firearms. Unlike at other venues, both federally licensed dealers and unlicensed sellers sell guns at gun shows. While federally licensed firearms dealers perform background checks, unlicensed sellers are not required to do so. Gun shows are also places where buyers can choose to buy from the primary (firearms sold by FFLs) or secondary (firearms resold by unlicensed sellers) firearms markets. Second-hand firearms are far more difficult than new guns for law enforcement officials to trace to the most recent seller. This is because second-hand firearms likely have left the hands of FFLs, who are required to keep records, into the hands of unlicensed persons who are not required to keep records. Even if the second-hand guns are resold to an FFL, they are untraceable, because the trace will effectively end at the last sale in the unbroken chain of licensed sellers. The access to anonymous sales and large numbers of secondhand firearms makes gun shows attractive to criminals.

In the ATF trafficking investigations reviewed here, gun shows were associated with the

diversion of approximately 26,000 firearms. Trafficking of firearms at and through gun shows was more prevalent in the trafficking investigations submitted by the Southwest (22 percent) and Western (21 percent) regions when compared to trafficking investigations submitted by the Central (15 percent), Southeast (12 percent), and Northeast (8 percent) regions of the United States.

A prior review of ATF gun show investigations shows that prohibited persons, such as convicted felons and juveniles, do personally buy firearms at gun shows and gun shows are sources of firearms that are trafficked to such prohibited persons. The gun show review found that firearms were diverted at and through gun shows by straw purchasers, unregulated private sellers, and licensed dealers.²² Felons were associated with selling or purchasing firearms in 46 percent of the gun show investigations.²³ Firearms that were illegally diverted at or through gun shows were recovered in subsequent crimes, including homicide and robbery, in more than a third of the gun show investigations.²⁴

²² *Gun Shows: Brady Checks and Crime Gun Traces*, Department of the Treasury and Department of Justice, January 1999: Table 3.

²³ *Gun Shows: Brady Checks and Crime Gun Traces*, Department of the Treasury and Department of Justice, January 1999: Table 3.

²⁴ *Gun Shows: Brady Checks and Crime Gun Traces*, Department of the Treasury and Department of Justice, January 1999: Table 4.

Straw Purchasers and the Diversion of Firearms

Investigations involving straw purchasers averaged 37 firearms per investigation, but because of the large number of investigations involving straw purchasing (695, 46 percent of all the trafficking investigations), this trafficking channel was associated with nearly 26,000 illegally diverted firearms. The 550 investigations involving straw purchasers without any additional trafficking channels averaged 26 illegally diverted firearms per investigation, and a total of just over 14,000 illegally diverted firearms. Although the average number of firearms trafficked per investigation is relatively small when compared to other trafficking channels, illegally diverted firearms associated with straw purchasers represent nearly a third of the illegally diverted firearms in all ATF investigations initiated between July 1996 and August 1998. Thus, despite the relatively small numbers per investigation, straw purchasers represent a significant overall crime and public safety problem.

Straw purchasers may be the instruments of criminals or traffickers who obtain the straw purchaser's services, or they may be unlicensed dealers who set out to use their non-prohibited status to traffick to other persons for a profit. In other words, the straw purchaser may also be the trafficker. In 25 percent of the investigations (387 of 1,530), the straw purchasers were working for traffickers, and in 19 percent of the investigations (292) the straw purchasers were the traffickers.²⁵ Straw purchasers were often friends (45 percent), relatives (23 percent), and spouses or girlfriends (18 percent) of the firearms traffickers. Almost 28 percent of the investigations involved a business relationship where the trafficker paid the straw purchaser money or drugs to buy firearms. Five percent of the investigations involved a straw purchaser who was a member of the same street gang as the trafficker.

Table 7. Relationships Between Straw Purchaser and Trafficker

| Relationship to trafficker | Number of investigations | Percent |
|--|--------------------------|---------|
| Friend | 173 | 44.7 |
| Business (paid with money or drugs to buy firearms) | 107 | 27.6 |
| Relative | 89 | 23.0 |
| Intimate (spouse or girlfriend) | 68 | 17.6 |
| Member of same gang | 21 | 5.4 |
| Number of investigations included = 387 | | |
| Note: Sum may exceed 100 percent since investigations may be included in more than one category. | | |

²⁵ Table 10, Firearms Traffickers and Felons Identified in Trafficking Investigations.

The Involvement of Juveniles and Youth in ATF Trafficking Investigations

Youth (ages 18 – 24) and juveniles (ages 17 and under) were involved in 42 percent of the ATF firearms trafficking investigations (648 of 1,530) during this period. ATF published an analysis of these investigations in the Youth Crime Gun Interdiction *Performance Report* in February 1999.

Juveniles were primarily involved in the trafficking investigations as possessors of firearms, but they were also involved in the illegal diversion of firearms as firearms traffickers, thieves or robbers, and straw purchasers of firearms.²⁶ A quarter of the youth and juvenile investiga-

tions involved juveniles obtaining firearms through thievery or robbery, and nearly a fifth of these investigations involved juveniles as gun traffickers.²⁷

Youth were nearly twice as likely as juveniles to be involved as traffickers, and because of age restrictions on the purchase of firearms, about ten times as likely to be involved as straw purchasers as juveniles.²⁸ It has been shown that of crime guns recovered and traced by law enforcement officials in 27 cities, more were possessed by 19 year olds than any other age group; crime guns recovered from 18 year olds ranked second.²⁹

Table 8: The Role of Youth and Juveniles in Trafficking Investigations

| Role of Youth | Number of investigations | Percent |
|---|--------------------------|---------|
| Possessor | 337 | 53.9 |
| Trafficker | 236 | 37.8 |
| Straw purchaser | 149 | 23.8 |
| Thief /robber of firearms | 122 | 19.5 |
| Number of investigations involving at least one youth = 625 | | |

| Role of Juveniles | Number of investigations | Percent |
|--|--------------------------|---------|
| Possessor | 155 | 74.2 |
| Thief /robber of firearms | 53 | 25.3 |
| Trafficker | 40 | 19.1 |
| Straw purchaser | 4 | 1.9 |
| Number of investigations involving at least one juvenile = 209 | | |

²⁶ *Performance Report for the Senate and House Committee on Appropriations, Youth Crime Gun Interdiction Initiative*, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, February 1999. pg. 6.

²⁷ *Performance Report for the Senate and House Committee on Appropriations, Youth Crime Gun Interdiction Initiative*, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, February 1999: Appendix, Table 1.

²⁸ *Performance Report for the Senate and House Committee on Appropriations, Youth Crime Gun Interdiction Initiative*, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, February 1999: Appendix, Table 1.

²⁹ *Gun Crime in the Age Group 18-20*, the Department of the Treasury and the Department of Justice, June 1999.

3-3. Firearms Misuse, Felons, and Trafficking Investigations

Persons prohibited from possessing firearms, including felons, are obtaining guns from the illegal market. While a case review does not measure the full extent of the use of trafficked firearms by prohibited persons or in subsequent crimes, ATF's trafficking investigations show that trafficked firearms are diverted to prohibited persons and are subsequently used in serious crimes, and that some felons are heavily involved in firearms trafficking. Thus, investigations that "follow the crime gun" to its illegal source are not only an effective strategy to disrupt and reduce firearms trafficking in a community, they also are an effective means to apprehend felons, armed career criminals, and narcotics traffickers who possess and misuse firearms.

Trafficked Firearms Subsequently Recovered in Crime

| | |
|--|--|
| Half of the trafficking investigations involved at least one firearm recovered in crime. More than 14 percent of the trafficking investigations were associated with juvenile possession cases; about 17 percent were associated with homicide and robbery cases, respectively; about 25 | percent of the investigations were associated with assault cases; more than 40 percent involved firearms associated with felon in possession cases; and more than 50 percent of these investigations involved firearms associated with illegal possession cases. |
|--|--|

Table 9. Known Criminal Uses of Trafficked Firearms

50.4% of the investigations (771 of 1,530) had at least one diverted firearm recovered in a crime.

| Crime | Number of cases with at least one firearm recovered in a crime | Percent |
|--|---|---------|
| Criminal possession (not felon in possession) | 390 | 50.6 |
| Felon in possession | 311 | 40.3 |
| Drug offense | 212 | 27.5 |
| Assault | 194 | 25.2 |
| Homicide | 134 | 17.4 |
| Robbery | 127 | 16.5 |
| Property crime | 116 | 15.0 |
| Juvenile possession | 109 | 14.1 |
| Sexual assault/ rape | 15 | 1.9 |
| Other crime | 42 | 5.4 |
| Number of investigations included = 771 | | |
| Note: Sum may exceed 100 percent since investigations may be included in more than one category. | | |

The Involvement of Felons in Firearms Trafficking

This review shows that convicted felons are heavily involved in firearms trafficking. Felons were involved in 45 percent (690 of 1,530) of the ATF firearms trafficking investigations in various roles. One third of the thieves and robbers involved in these investigations had at least one prior felony conviction, as did nine percent of straw purchasers working for traffickers, and 24 percent of straw purchasers who were the sole trafficker, five percent of the FFL traffickers, and more than a third of other firearms traffickers, such as unlicensed dealers.

Altogether, there were 2,670 traffickers identified by ATF agents, of whom 25 percent (669) were convicted felons. Felons may be identified as straw purchasers for a number of reasons: an FFL may have a felon as an employee; a felon may be buying from an unlicensed seller who does not conduct Brady checks; a felon may have stolen identity papers; and before the permanent provisions of the Brady Act took effect in November 1998, no criminal history checks were conducted for the purchase of long guns.

Table 10. Firearms Traffickers and Felons Identified in Trafficking Investigations

| Role | Total number of traffickers | Number of traffickers with felony convictions | Percent of traffickers with felony convictions |
|---|-----------------------------|---|--|
| Firearms thief/ robber | 616 | 205 | 33.3 |
| Straw purchaser working for trafficker | 610 | 53 | 8.9 |
| Trafficker is the straw purchaser | 338 | 79 | 23.3 |
| FFL trafficker* | 131 | 7 | 5.3 |
| Former FFL | 25 | 0 | 0.0 |
| Other trafficker | 950 | 325 | 34.2 |
| Total | 2,670 | 669 | 25.0 |
| Number of investigations included = 1,530 | | | |
| * May include employees of FFL. | | | |

3-4. Characteristics of the Investigations

Most ATF trafficking investigations, 68 percent (1,037 of 1,530), involved the cooperation of State and/or local law enforcement agencies. Table 11 shows that about 70 percent of the investigations involved intrastate trafficking, suggesting that where there are applicable State firearms laws, State and local law enforcement have an important role to play in curbing the illegal market in firearms. Table 12 shows that most, but not all, gun trafficking investigations involve relatively small numbers of firearms. Table 13 highlights the relative roles of new, secondhand, and stolen firearms in trafficking investigations. The chain of ownership and status of a firearm can affect law enforcement's ability to identify its illegal supplier. Because of limited recordkeeping and reporting requirements applicable to stolen and secondhand firearms, the illegal sources of new crime guns are much easier to investigate.

Interstate and Intrastate Destinations of Trafficked Firearms

ATF trace analysis reports have documented that the State in which a community is located is generally the largest single source of its traced crime guns.³⁰ The reports also show that some jurisdictions act as "source" areas (e.g. Florida and Georgia) of crime guns for other "market" areas (e.g. New York and Boston).³¹ The review of investigations shows that firearms traffickers engage in intrastate trafficking,

interstate trafficking, and international trafficking. Intrastate firearms trafficking was involved in 70 percent of the investigations, while slightly less than half of the investigations involved interstate firearms trafficking. Twenty percent of the investigations involved firearms being trafficked both interstate and intrastate. Firearms were trafficked internationally in about 11 percent of the investigations.

Table 11. Interstate, Intrastate, and International Trafficking in ATF Investigations

| Destination of trafficked firearms | Number | Percent |
|---|--------|---------|
| Intrastate | 1,072 | 70.1 |
| Interstate | 678 | 44.3 |
| International (export) | 170 | 11.1 |
| Unknown | 53 | 3.5 |
| Mutually exclusive categories: | | |
| Total | 1,530 | 100.0 |
| Intrastate only | 696 | 45.5 |
| Interstate and intrastate | 312 | 20.4 |
| Interstate only | 299 | 19.5 |
| International only | 87 | 5.7 |
| Interstate, intrastate, and international | 47 | 3.1 |
| Intrastate and international | 19 | 1.2 |
| Interstate and international | 17 | 1.1 |
| Unknown | 53 | 3.5 |

³⁰ *Youth Crime Gun Interdiction Initiative Trace Analysis Reports, 27 Communities*, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, February 1999.

³¹ *Youth Crime Gun Interdiction Initiative Trace Analysis Reports, 27 Communities*, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, February 1999.

Number of Firearms Trafficked in ATF Investigations

Firearms trafficking mainly involves relatively smaller numbers; 43 percent of the investigations involved 10 firearms or less. Trafficking in large numbers of firearms, however, does occur; the two largest numbers of firearms reported in connection with a single investigation were 10,000 and 11,000, respectively.

Table 12. Number of Firearms Involved in ATF Trafficking Investigations

| Range | Number of investigations | Percent |
|--------------------------------|--------------------------|---------|
| Total number of investigations | 1,530 | 100.0 |
| Less than 5 | 354 | 23.1 |
| 5 – 10 | 308 | 20.1 |
| 11 – 20 | 279 | 18.2 |
| 21 – 50 | 286 | 18.7 |
| 51 – 100 | 139 | 9.1 |
| 101 – 250 | 67 | 4.4 |
| 251 or greater | 37 | 2.4 |
| Unknown | 60 | 3.9 |

New, Secondhand, and Stolen Firearms

ATF's trace analysis in 27 cities suggests that up to 43 percent of traced firearms are new guns that have moved rapidly from the shelf of an FFL to recovery by law enforcement in three years or less, and, therefore, may have been trafficked.³² The mere rapid movement of a firearm does not confirm that trafficking has occurred, because a gun may have been purchased by the criminal user or stolen by the criminal user from an FFL or from the person who bought the firearm. ATF, therefore, treats rapid time-to-crime as a trafficking indicator to be investigated with other information.

Focusing exclusively on new guns likely underestimates the true extent of gun trafficking. A National Tracing Center trace usually ends after the first retail sale. Following the trail of the gun further often requires a substantial commitment of investigative effort by the tracing law enforcement agency, a commitment that is often not feasible. ATF's trace analysis reports estimated that between 57 and 71 percent of all traceable crime guns in 27 cities were recovered more than three years after the first retail sale. While a trace of a crime gun may reveal that it was first sold at retail ten years before its recovery in crime, it is nevertheless possible that it was trafficked. The

firearm during this time period could be resold to and by FFLs, or by unlicensed sellers on the secondary market, as "used" or "secondhand," and subsequently trafficked.

This review shows that investigations involved the trafficking of new, secondhand, and stolen firearms. Thus, while trace analysis alone cannot shed light on the percentage of older crime guns that are trafficked, ATF investigative experience suggests that trafficking in secondhand firearms is indeed a significant crime and public safety problem. While new firearms figured more prominently, new and secondhand guns were trafficked together in about one third of the investigations.

As documented in Table 3, firearms are stolen from a variety of sources. Depending on the type of theft involved, stolen firearms may range from new to quite old. For example, a burglary of a licensed dealer may yield a cache of new and secondhand firearms while a residential burglary or series of home invasions may yield only older firearms. Both new and secondhand firearms were stolen and subsequently trafficked, with secondhand firearms figuring more prominently among stolen, trafficked firearms.

Table 13. New, Secondhand, and Stolen Firearms in ATF Trafficking Investigations

| Type of firearm | Number of investigations | Percent |
|--|--------------------------|---------|
| New firearms | 1,120 | 73.2 |
| Secondhand firearms | 899 | 58.8 |
| Stolen guns | 381 | 24.9 |
| Unknown | 27 | 1.8 |
| Stolen firearms: | | |
| Involves at least one new firearm | 223 | 58.5 |
| Involves at least one secondhand firearm | 304 | 79.8 |
| Mutually exclusive categories for new and secondhand firearms: | | |
| Total | 1,530 | 100.0 |
| New firearms only | 604 | 39.5 |
| New and secondhand firearms | 516 | 33.7 |
| Secondhand firearms only | 383 | 25.0 |
| Unknown | 27 | 1.8 |
| Note: Sum may exceed 100 percent since investigations may be included in more than one category. | | |

³² *Youth Crime Gun Interdiction Initiative Trace Analysis Reports, 27 Communities*, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, February 1999. pg. A-3.

3-5. Characteristics of Case Dispositions

An examination of the characteristics of case dispositions shows two things: first, that ATF is vigorously enforcing laws against firearms traffickers with the support of Federal and State prosecutors; and second, that persons who traffick in firearms are often not being prosecuted for that conduct, rather they are being prosecuted for other related conduct.

Violations Reported in ATF Trafficking Investigations

Illegal buying and selling. ATF investigations uncovered a wide variety of apparent trafficking violations. ATF agents reported an average of two firearms violations per trafficking investigation and 36 percent of trafficking investigations were reported to have three or more firearms violations. Most were “selling” violations such as dealing without a license, or “buying” violations, such as straw purchasing, but violations involving firearms theft were also important.

Felons as traffickers. Felons play a significant role in firearms trafficking. About 23 percent of the investigations included violations involving convicted felons buying, selling, or possessing firearms.

Obliteration of serial numbers. About six percent of the investigations had violations involving serial number obliteration. Serial number obliteration is a clear indicator of firearms

trafficking, since the intentional obliteration of a serial number is intended to make it difficult for law enforcement officials to trace the firearm through a licensed seller to the first retail buyer. Other ATF analysis confirms that the obliteration of serial numbers is a significant problem; for eight cities with complete crime gun trace information, an average of 11.4 percent of traced handguns had obliterated serial numbers.³³

Violations by FFLs. A review of the violations associated with the 133 investigations of licensed dealers revealed a variety of violations, including failure to keep required records (49 percent), transfers to prohibited persons (26 percent), making false entries in record books (19 percent), conducting illegal out-of-state transfers (16 percent), and obliterating serial numbers (8 percent).

³³ *Youth Crime Gun Interdiction Initiative Trace Analysis Reports, 27 Communities*, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, February 1999. pg 13.

Table 14. Violations in ATF Trafficking Investigations*

| Violation | Number of investigations with violation | Percent |
|--|--|---------|
| Straw purchasing | 638 | 41.7 |
| Dealing without a license | 486 | 31.8 |
| Purchase/ possession/ sales by felon | 350 | 22.9 |
| Possession/ receiving/ trafficking stolen firearms | 270 | 17.6 |
| Non-licensee engaging in interstate firearms trafficking | 244 | 15.9 |
| Possession/ manufacture/ trafficking of NFA weapons | 234 | 15.3 |
| Burglary/ theft/ robbery of FFL/ common carrier/ manufacturer | 205 | 13.5 |
| Providing false information to acquire firearms | 199 | 13.0 |
| Trafficking - unspecified | 135 | 8.8 |
| International firearms trafficking | 105 | 6.9 |
| Obliterating or altering serial numbers | 96 | 6.3 |
| Sales to prohibited persons, including felons | 89 | 5.8 |
| Purchase/ possession/ sales by prohibited persons** | 79 | 5.2 |
| FFL failure to keep required records | 66 | 4.3 |
| Use of firearm during violent crime or drug trafficking | 42 | 2.7 |
| FFL transfer to prohibited persons | 39 | 2.5 |
| FFL making false entries in records | 26 | 1.7 |
| FFL conducts illegal out-of-state transfer | 26 | 1.7 |
| Trading firearms for drugs | 26 | 1.7 |
| Providing firearm to be used in violent/ drug crime | 20 | 1.3 |
| Trafficking/ possession by illegal alien | 15 | 1.0 |
| Providing firearms to juveniles | 13 | 0.8 |
| Non-licensee trafficking to felons | 12 | 0.8 |
| Transfer/ receive firearms through interstate commerce w/intent to commit felony | 12 | 0.8 |
| Armed career criminal | 11 | 0.7 |
| Failure to notify common carrier of firearms shipment | 11 | 0.7 |
| Possession/ manufacture/ transfer of illegal assault weapon | 8 | 0.5 |
| Other FFL violations (selling away from premises, failure to report multiple sales, failure to conduct Brady check, using false info to acquire FFL) | 7 | 0.5 |
| Possession/ manufacture of unregistered firearms | 7 | 0.5 |
| Unspecified violation(s) | 8 | 0.5 |
| Number of investigations included = 1,530 | | |
| Note: Sum may exceed 100 percent since investigations may be included in more than one category. | | |
| * Violations were observed but not necessarily presented as charges for prosecution. | | |
| ** As distinct from felons; includes juveniles, illegal aliens, and other prohibited persons. | | |

Violations in ATF Trafficking Investigations Involving FFLs

There were 133 ATF investigations (8.7 percent of 1,530) that involved the illegal diversion of firearms by a federally licensed firearms dealer (FFL). A variety of FFL violations were revealed in these investigations. Nearly half (48.9 percent, 65 of 133) of the licensed dealer investigations involved the failure to keep required records by an FFL. Slightly more than a quarter of the ATF investigations (26.3 percent, 35 of 133) involved FFLs transferring firearms to prohibited persons such as felons and juveniles. FFLs made false entries in their acquisition and disposition record book in almost a fifth of the ATF investigations (18.8 percent, 25 of 133) and conducted illegal out-of-state transfers of

firearms in about 16 percent of the ATF investigations (15.8 percent, 21 of 133). ATF investigations involving corrupt FFLs were associated with many other types of firearms offenses including NFA violations (24.8 percent, 33 of 133), straw purchasing (24.1 percent, 32 of 133), and dealing without a license (18.8 percent, 25 of 133). Although corrupt FFLs are relatively rare, they are associated with the diversion of large volumes of firearms. While some violations committed by FFLs are felony offenses, two common FFL violations — failure to keep required records and making false entries in records — are misdemeanor offenses.

Table 15: Violations in ATF Trafficking Investigations Involving FFLs*

| Violation | Number | Percent |
|--|--------|---------|
| FFL failure to keep required records | 65 | 48.9 |
| FFL transfer to prohibited persons | 35 | 26.3 |
| Possession/ manufacture/ trafficking of NFA weapons | 33 | 24.8 |
| Straw purchasing | 32 | 24.1 |
| Dealing without a license | 25 | 18.8 |
| FFL making false entries in records | 25 | 18.8 |
| FFL conducts illegal out-of-state transfer | 21 | 15.8 |
| Purchase/ possession / sales by felon | 16 | 12.0 |
| Trafficking - unspecified | 14 | 10.5 |
| International firearms trafficking | 13 | 9.8 |
| Sales to prohibited persons | 13 | 8.8 |
| Providing false information to acquire firearms | 11 | 8.3 |
| Obliterating or altering serial numbers | 10 | 7.5 |
| Possession/ receiving/ trafficking stolen firearms | 9 | 6.8 |
| Other FFL violations (selling away from premises, failure to report multiple sales, failure to conduct Brady check, using false info to acquire FFL) | 7 | 5.3 |
| Non-licensee engaging in interstate firearms trafficking | 6 | 4.6 |
| Trading guns for drugs | 4 | 3.0 |
| Receipt/ possession/ sales by prohibited persons | 3 | 2.3 |
| Use of firearm during violent crime or drug trafficking | 3 | 2.3 |
| Burglary/ theft/ robbery of FFL/ common carrier/ manufacturer | 2 | 1.6 |
| Providing firearm to be used in violent/ drug crime | 2 | 1.5 |
| Possession/ manufacture/ transfer of illegal assault weapon | 2 | 1.5 |
| Trafficking/ possession by illegal alien providing firearms to juveniles | 1 | 0.8 |
| Transfer/ receive firearms through interstate commerce w/intent to commit felony | 1 | 0.8 |
| Failure to notify common carrier of firearms shipment | 1 | 0.8 |
| Possession/ manufacture of unregistered firearms | 1 | 0.8 |
| Unspecified violation(s) | 2 | 1.5 |
| Number of investigations involving FFLs = 133 | | |
| Note: Sum may exceed 100 percent since investigations may be included in more than one category. | | |
| * Violations were observed but not necessarily presented as charges for prosecution. | | |

National Firearms Act Violations

The National Firearms Act (NFA) regulates the manufacture, importation, transfer, and possession of specific types of firearms and other weapons that are considered particularly dangerous. Of the trafficking investigations, 15 percent involved NFA violations. Of these, 45

percent involved machine guns, 35 percent involved sawed-off shotguns and/or short-barrel firearms, 23 percent involved silencers, and about 17 percent involved firearms converted to fully automatic.

Table 16. Weapons Associated with NFA Violations in ATF Trafficking Investigations

| NFA weapon | Number of investigations with at least one | Percent |
|---|---|---------|
| Machine guns | 105 | 44.9 |
| Sawed-off shotguns/ short-barrel rifles & shotguns | 82 | 35.0 |
| Silencers | 54 | 23.1 |
| Converted guns | 40 | 17.1 |
| Conversion kits/ parts | 21 | 9.0 |
| Other explosives (e.g. blasting caps) | 18 | 7.7 |
| Grenades/ Grenade launchers | 12 | 5.1 |
| Number of investigations involving NFA violations = 234 (15.3 percent of 1530) | | |
| Note: Sum may exceed 100 percent since investigations may be included in more than one category. However, "converted guns" have not been included in the "machine gun" count. | | |

Recommendations for Prosecution

Of the investigations initiated from July 1996 through December 1998, ATF agents recommended almost three-fourths of the firearms investigations for prosecution (1,090 of 1,530). Nearly 90 percent (962) of these 1,090 investigations were recommended to a U.S. Attorney's Office for prosecution, while slightly less than ten percent (101) were recommended to a State or local prosecutor for prosecution. Almost three percent (27) had some defendants in the case recommended to the U.S. Attorney's Office for prosecution and other defendants recommended to a State or local prosecutor for prosecution.

A variety of reasons were given by the ATF agents to explain why investigations (440) were not recommended for prosecution at the time of the supplementary survey. In less than 30 percent of the investigations not recommended for prosecution (121), the ATF agent stated that there was no potential for charges to be made against the defendant(s) in the case. Slightly less than 18 percent of the investigations (78) were not recommended for prosecution by ATF agents because there was insufficient evidence for prosecution at the time of the supplemental survey. Nearly 18 percent of the investigations not recommended for prosecution (77) were described as active ongoing investigations.

Table 17. ATF Trafficking Investigations Recommended for Prosecution

| | Number of investigations | Percent |
|--|--------------------------|----------------|
| Investigations, total | 1,530 | 100.0 |
| Not recommended for prosecution | 440 | 28.7 |
| Recommended for prosecution | 1,090 | 71.3 |
| Recommended | | 100.0 |
| to the U.S. Attorney's Office | 962 | 88.2 |
| to State/ local prosecutor | 101 | 9.3 |
| to both | 27 | 2.5 |
| Reason for not recommending | Number of investigations | Percent of 440 |
| Total | 440 | 100.0 |
| No potential for charges | 121 | 27.5 |
| Insufficient evidence/ unable to substantiate violation | 78 | 17.8 |
| Investigation is still ongoing | 77 | 17.5 |
| Case was closed by ATF Field Division | 34 | 7.7 |
| Defendant(s) charged and prosecuted for other crimes before firearms trafficking investigation was developed | 27 | 6.1 |
| Investigation was transferred to another jurisdiction | 16 | 3.6 |
| Charges are forthcoming | 9 | 2.0 |
| Suspects were given a warning for violations without prosecution | 8 | 1.8 |
| Investigation was consolidated with another investigation | 6 | 1.4 |
| Confidential informant broke/ lost contact with defendant(s) | 5 | 1.1 |
| Investigation didn't progress because confidential informant was unreliable | 4 | 0.9 |
| No criminal intent by defendant(s) was found | 4 | 0.9 |
| Other reasons | 23 | 5.2 |
| Unspecified reasons | 28 | 6.3 |

Status of Investigations Recommended for Prosecution

Ninety percent of the investigations (975 of 1,090) recommended for prosecution were accepted for prosecution; only 10 percent (115) were declined. Table 18 presents the status of the cases accepted for prosecution at the time of the supplementary survey. More than 57

percent of the investigations were fully adjudicated, while an additional five percent had some defendants fully adjudicated and other defendants not fully adjudicated. Thirty-six percent of the cases were not yet fully adjudicated and only two percent were on appeal.

Table 18. Status of Trafficking Investigations Accepted for Prosecution

| Status | Number | Percent |
|---------------------------------------|--------|---------|
| Total | 975 | 100.0 |
| Fully adjudicated | 558 | 57.2 |
| Not fully adjudicated | 351 | 36.0 |
| Some defendants adjudicated, some not | 46 | 4.7 |
| Case is on appeal | 20 | 2.1 |

Federal Charges Against Defendants Recommended for Prosecution in Trafficking Investigations

There were 1,787 defendants in the 1,090 firearms trafficking investigations recommended for prosecution by ATF agents. Almost 90 percent of these defendants faced Federal charges (1,593).

Trafficking-related charges. Some of the defendants were charged with offenses related on their face to firearms trafficking: 28 percent were charged with making false statements to acquire firearms, and about 18 percent were charged with dealing in firearms without a license. Nearly 28 percent of the defendants were charged with conspiracy to violate Federal laws and another

eight percent were charged with aiding and abetting violations.

Other charges. Other defendants were charged with offenses not necessarily related on their face to firearms trafficking or firearms crime generally. Fully one quarter of the defendants were charged with being a convicted felon in possession of a firearm; another six percent were charged with other prohibited person violations. Over 27 percent were charged with conspiracy and over 12 percent with narcotics violations.

Table 19. ATF Description of Charges Against Defendants in Trafficking Investigations Recommended for Federal Prosecution

| Charge category | Number of defendants | Percent |
|---|----------------------|---------|
| Conspiracy to violate Federal law | 441 | 27.7 |
| Making false statements to acquire firearms | 439 | 27.6 |
| Convicted felon in possession of firearm (includes Armed Career Criminal) | 408 | 25.6 |
| Dealing in firearms without a license | 290 | 18.2 |
| Theft of firearms/ Possession of stolen firearms/ Sale of stolen firearms | 238 | 15.9 |
| Illegal possession/ Transfer / Manufacture of NFA weapons | 216 | 13.5 |
| Narcotics violations | 192 | 12.1 |
| Aiding and Abetting in the violation of Federal law | 122 | 7.7 |
| User of a firearm during a drug crime | 100 | 6.3 |
| Possession of firearm by prohibited person (juvenile, drug user, illegal alien, restraining order, under indictment) | 95 | 6.0 |
| Interstate firearms trafficking | 92 | 5.8 |
| Sale of firearms to out-of-state resident | 69 | 4.3 |
| Possession/ shipping/ transporting a firearm with obliterated serial numbers | 63 | 4.0 |
| Failure to maintain ledger/ falsifying paperwork/ sale of firearms in violation of Brady law/ sale of firearms without noting purchaser's name, age, etc. | 50 | 3.1 |
| Selling firearms to convicted felon | 35 | 2.2 |
| Transfer of firearm to prohibited person (juvenile, illegal alien, restraining order, under indictment) | 33 | 2.0 |
| International firearms trafficking | 28 | 1.8 |
| Transfer of a firearm to be used in a violent crime | 19 | 1.2 |
| Other/ unspecified Federal violation | 101 | 6.3 |
| Number of defendants in the investigations recommended for prosecution = 1,593 | | |
| Note: Since defendants can be charged with more than one type of crime, these categories are not mutually exclusive. | | |

Geographic Distribution of Federal Prosecutions

Trafficking defendants were recommended for prosecution to U.S. Attorney's Offices in Federal courts covering 48 States, the District of Columbia, and Puerto Rico.

Table 20. States in which ATF Recommended Federal Prosecution of Defendants in Trafficking Investigations

| State | Number | Percent | State | Number | Percent |
|------------------------------|--------|---------|-------------------|--------|---------|
| Alabama | 7 | 0.4 | North Carolina | 91 | 6.5 |
| Alaska | 4 | 0.3 | North Dakota | 16 | 1.0 |
| Arkansas | 5 | 0.3 | Nebraska | 8 | 0.5 |
| Arizona | 21 | 1.3 | New Hampshire | 11 | 0.7 |
| California | 54 | 3.4 | New Jersey | 17 | 1.1 |
| Colorado | 19 | 1.2 | New Mexico | 12 | 0.9 |
| Connecticut | 8 | 0.5 | Nevada | 10 | 0.6 |
| DC | 16 | 1.1 | New York | 134 | 9.4 |
| Delaware | 17 | 1.1 | Ohio | 37 | 2.3 |
| Florida | 97 | 6.1 | Oklahoma | 24 | 1.5 |
| Georgia | 98 | 6.2 | Oregon | 21 | 1.3 |
| Hawaii | 2 | 0.1 | Pennsylvania | 143 | 9.0 |
| Iowa | 7 | 0.4 | Rhode Island | 13 | 0.8 |
| Illinois | 24 | 1.5 | South Dakota | 9 | 0.6 |
| Indiana | 53 | 3.3 | Tennessee | 23 | 1.4 |
| Kansas | 6 | 0.4 | Texas | 124 | 8.9 |
| Kentucky | 23 | 1.4 | Utah | 2 | 0.1 |
| Louisiana | 23 | 1.4 | Virginia | 101 | 6.3 |
| Massachusetts | 43 | 2.7 | Vermont | 12 | 0.8 |
| Maryland | 24 | 1.5 | Washington | 29 | 1.8 |
| Maine | 17 | 1.1 | Wisconsin | 33 | 2.1 |
| Michigan | 25 | 1.6 | West Virginia | 27 | 1.7 |
| Minnesota | 4 | 0.3 | Wyoming | 2 | 0.1 |
| Missouri | 26 | 1.6 | Unspecified State | 5 | 0.3 |
| Mississippi | 13 | 0.8 | Puerto Rico | 3 | 0.2 |
| Montana | 1 | 0.1 | | | |
| Number of defendants = 1,593 | | | | | |

Disposition of Defendants Recommended for Prosecution

Adjudication. Nearly 61 percent of the defendants recommended for prosecution were fully adjudicated at the time of the supplemental survey (1,083 of 1,787). Only 3 percent of the 1,083 fully adjudicated defendants were found not guilty or were dismissed. The ATF agents knew the sentencing outcome for all but slightly more than seven percent of the sentenced defendants at the time of the survey (77 of 1,048).

Incarceration and fine. Nearly 78 percent of these defendants (812) received a term of incarceration. Slightly more than 7 percent of the incarcerated defendants also received a fine (60 of 812). The fines ranged from \$50 to \$40,000.

Term of incarceration. Of the 812 incarcerated defendants, 9 percent received a term that was more than 10 years with some receiving life imprisonment; 26 percent received a term that was more than four years but no more than 10

years; 26 percent received a term that was more than two years but no more than four years; 22 percent received a term that was more than one year but no more than two years, and 17 percent received a term of one year or less. The average sentence imposed on those incarcerated was about nine years of imprisonment, resulting in a total of 7,420 years in prison.

Probation. About 15 percent of the defendants who were sentenced received a term of probation (155 of 1,048). Of the 155 defendants who received probation, 23 percent received a term of more than four years but less than eight years, almost 33 percent received a term of more than two years but no more than four years; nearly 30 percent received a term that was more than one year but no more than two years; and nearly 13 percent received a term of one year or less.

Table 21. Disposition of Defendants in Trafficking Investigations Accepted for Prosecution

| Status | Number of defendants | Percent |
|---|----------------------|---------|
| Accepted for prosecution | 1,787 | 100.0 |
| Not fully adjudicated | 704 | 39.4 |
| Fully adjudicated | 1,083 | 60.6 |
| Of those fully adjudicated | 1,083 | 100.0 |
| Guilty | 1,048 | 96.7 |
| Not guilty or dismissed | 35 | 3.2 |
| Disposition, total | 1,048 | 100.0 |
| Incarceration | 812 | 77.5 |
| Probation | 155 | 14.8 |
| Home confinement (w/o probation period) | 4 | 0.4 |
| Unknown sentence | 77 | 7.3 |
| Sentence length | | |
| Incarcerated, total | 812 | 100.0 |
| 12 months or less | 138 | 17.0 |
| 13 – 24 months | 176 | 21.7 |
| 25 – 48 months | 207 | 25.5 |
| 49 – 120 months | 210 | 25.9 |
| 121 months – Life | 75 | 9.2 |
| Unknown length | 6 | 0.8 |
| Fine in addition to incarceration | 60 | 7.4 |
| Probation, total | 155 | 100.0 |
| 12 months or less | 20 | 12.9 |
| 13 – 24 months | 46 | 29.7 |
| 25 – 48 months | 51 | 32.9 |
| 49 – 96 months | 36 | 23.2 |
| Unknown length | 2 | 1.3 |
| Fine in addition to probation | 16 | 10.3 |
| Home confinement in addition to probation | 19 | 12.3 |